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when he has everything else, he usually thinks very kindly to an Umbrella, and at present our Umbrellas are crowding us for "room." "Good" Umbrellas only are represented here. We leave for you to say as to whether the prices are right or not.

Ladies' and men's tight roll steel rod, tafeta silk Umbrellas, 89 different styles, generally \$5 each, for \$3.50.

Silk Gloria Umbrellas, \$1

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- IF YOU are interested in Pianos, IF YOU desire to see a good Piano,
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We can show you something new in a Piano. A Piano with an individuality of tone. A Piano that can best sound its own praise. Cash or Payments.

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Seal, Beaver, China Dog, Coon and Bear Skins

Warm Gloves-15c, 25c, 50c, 75 and up. Kid Gloves-75c, \$1, \$1,25 to \$2.

LEFT THE SURGICAL INSTITUTE. Dr. Hornce R. Allen Understood to Be in Chicago.

Dr. Horace R. Allen has severed his con- to law; nection with the Allen Surgical Institute. Since October his son, Dr. Frank Allen, has been in charge of his father's affairs. Edward A. Walker, one of the proprietors of the institute, is authority for the statement that Dr. Allen is in Chicago. It is said that he is at the head of a large land syndicate which contemplates extensive enterprises in Arkansas. Various rumors concerning Dr. Allen's affairs, which have been in circulation, are strenuously denied

Oberlin Glee Club.

The Oberlin Glee Club will visit Indianapolis on their annual holiday tour, night of this week, will be at Tomlinson Hall. While the Oberlins give the rollick-ing music peculiar to all glee clubs, they also render equally well classical music not attempted by other clubs and other companies, their programme including Wagner, Mendelssohn, etc. The club is strengthened by Miss Lotte Demuth, Oberlin's young violinist.

AN IMPORTANT BRIEF

NEW POINT IS RAISED AS TO THE LENDING OF COUNTY FUNDS.

Hinges on the Difference Between the Effect of a Comma and a Semicolon.

There is a petition for a rehearing on file in the Supreme Court in the case of the Winchester Electric Light Company and some of its directors against George W. Neal, treasurer of Randolph county, in which a question of law hinges upon grammatical construction, and is one of the greatest importance to the people of the FULL DRESS PATTERNS State.

Treasurer Veal loaned to the light company \$8,000 of the county funds. The note was signed by the light company, with some of its directors as sureties. When the note became due the light company refused to pay it, claiming that as it was illegal for the treasurer to loan the county funds, he could not maintain an action for recovery. L. S. AYRES& CO These facts were set out in the answer to the complaint. The trial court overruled the answer, or that part of it, and the case was at issue. It was decided in favor of the treasurer. An appeal followed and the case was reversed by the Supreme Court. The opinion was written by Judge Howard, who was then Chief Justice. It was concurred in by all the members of the IF YOU are thinking of buying a Piano, court except Judge Monks. Section 1942 of the Revised Statutes of 1881 is the law upon | the treasurer. (5 Burns, Section 2020.)

which the decision was based. In the opinion the court says, after quoting the section referred to: "It seems clear that under this statute the appellee, in loaning the money in his hands as county treasurer, was guilty of a felony. It is hence argued that, having thus engaged in the commission of an act made criminal by the law of the State, the appellee is not in a position to invoke the same law to aid him in the recovery of the money loaned; that by assisting him to make good his loan the law would, in effect, be abetting him in his wrong-doing. In other words, that the law cannot help the criminal to reap the fruits of his crime, but must leave him where it finds him; and the county can look only to the treasurer personally and to his bondsmen to make good any loss that may be occasioned to the treasury by the failure to recover the money so illegally

by the borrower is not one of honor, but one of bare legal right. 'We accept and adopt,' says counsel for appellants, the language of Judge Worden in Rock vs. Stringer, 36 Ind., 346, where he says: 'We may remark, however, the defense has nothing in it to commend itself to favorable consideration; but, notwithstanding this, it should prevail if the rigid law is with the defendants.'" Continuing, the court says: "It is said by counsel for appellee that the ruling of the trial court in the case before us was based upon the theory that the legal title to the money loaned was in the treasurer, and that consequently he had the right to loan and collect the same, and that in making such ruling the court below was but following the decisions of this court.

"Counsel for appellants contend that these decisions were made before the enactment, in 1881, of the penal statute above set out, and that this court has not since that date held that the treasurer can loan the money Ladies' Mahogany Desk, \$4.75.

Ladies' Mahogany Rocker, \$9.25.

Gentlemen's Mahogany and Curly

Birch Shaving Stands, \$14.90

Birch Shaving Stands, \$14.90

And that this court has not since that date held that the treasurer can loan the money in his hands, although it has been held that the legal title to the money is still in the treasurer. (Harvey vs. State, 94 Ind., 159; Rogers vs. the State, 99 Ind., 218; Rowley vs. Fair, 104 Ind., 189.)

'Ut is to be noted, however, that these and other fike decisions, though made since the enactment of the criminal statute in question, were not made with reference to and upward.

Only a few of these articles

at special cut prices left.

the enactment of the criminal statute in question, were not made with reference to that statute. Not until now, so far as we have been enabled to learn, has that statute been brought here for consideration; and now, for the first time, it becomes necessary to decide whether a contract made in violation of that statute is valid and enforces his between the parties.

in violation of that statute is valid and enforceable between the parties.

"Moreover, even as to the treasurer's title to the money loaned, the holding in the case of Rowley vs. Fair, supra, is to the effect that such title is rather technical than substantial, and is acknowledged only for the better security of the funds and not for the use and benefit of the officer him-

After quoting from the opinion in this case, the court continues: "As to the suggestion that such loaning of the township gestion that such loaning of the township funds by the former trustee was embezzlement, the court expressly refused to make any decision, saying: 'That is a question not now in any manner before us, and concerning which we are not now called upon either to intimate or decide anything.'

"In the case now under consideration, the appellee having violated an express statute in loaning the money in his hands as county treasurer, and the question being before us for a decision, the holding must be that he can maintain no action based upon his own illegal act."

he can maintain no action based upon his own illegal act."

In concluding the court held that if it could be shown that the county was interested in the case the ruling might be different on the ground of public policy. For this reason it reversed the case, but instructed the lower court to admit the answer that the money was noncollectable, and at the same time allow the complaint to be amended so as to make other parties complainants. The county was in view as a Laz Noble & Co.,

Booksellers and Stationers,

in copying the act passed in 1881, and that the original act, as shown by the enrolled copy, does not prohibit the loaning of public money. The act in question is Section 1942 of the Revised Statutes of 1881, and reads as follows in the enrolled copy, the punctuation marks within parenthesis showing wherein the printed copy differs "Whoever, being charged, () or in any manner entrusted with the collection, re-ceipt, safe keeping, transfer (,) or dis-bursement of any money, funds, securities, bonds, choses in action, or other property,
() belonging to or under the control of the
State, () or of any State officer (,) or belonging to or under the control of any
county, civil or school township, city (,) or
town in this State, converts to his own use, or to the use of any other person or persons, corporation or corporations (,) in any

manner whatever, contrary to law, (;) or uses (,) by way of investment in any kind of property, (;) or loans (,) either with or without interest, (;) or deposits with any person or persons, corporation or corporations, contrary to law, (;) or exchanges for other funds, except as allowed by law, any portion of such money, funds, securities, bonds, choses in action, or other property, (—) is guilty of embezzlement, and (,) upon conviction thereof (,) shall be imprisoned in the State prison not more than twenty-one years nor less than two years, fined not exceeding double the value of the money or other property embezzled, and disfranchised (,) and rendered incapable of holding any office of trust or profit for any determinate period."

In commenting on this in their brief, Elwithout interest, (;) or deposits with any In commenting on this in their brief, Elliott & Elliott say: "The difference between the correct and incorrect versions is best exhibited by placing in parallel columns the parts of the statute which are here of im-

-Correct Version .-', or loans either with or without interest. or deposits with any person or persons, orporation or corporations, contrary to

-Incorrect Version.-': or loans, either with or without interest; or deposits with any person or per-

"It will be observed that in the enrolled bill, as in the acts of 1881, the words 'with-out interest' are followed by a comma, while in the revisions of 1881 and 1894 (from which the court copied), the words 'with-out interest' are followed by a semicolon. In the true version a comma divides, while in the incorrect one the division is made by

"The effect of the erroneous use of a semi-colon between the words 'without interest' and the words 'or deposits' is to cut off the words 'contrary to law' from the words 'or loans either with or without interest.' According to the enrolled bill, and the official edition of the laws of 1881, the words 'contrary to law,' are connected with the words 'or loans either with or without interest' and not dissevered as in the erroneous

From this the attorneys argue in their brief that as the words "contrary to law" must modify the words "or loans with or without interest" in the case at bar there is no embezzlement, because the laws in force previous to this, and the decisions of the Supreme Court in a large number of cases are that public officers may loan the money in their charge. The practice was never questioned as being illegal until this act was passed, and it was supposed at the time that it would make the lending of public funds a crime. In their argument in the brief Elliott & Elliott say:
"If the Legislature had intended to make the fact of lending or depositing public money a crime it would have said so in direct terms. It did not say so. It did not say say that an officer who lends public money say that say tha

is guilty of embezzlement; if it had, then there would be strong reason in the position of appellant. But instead of making the fact of lending or depositing public money a felony, the Legislature said it should not be a felony unless the loan or deposit was made 'contrary to law.' If the words 'contrary to law' were not in the statute and there were no decisions upon the subject, a different conclusion from that

statute and there were no decisions upon the subject, a different conclusion from that we assert might be plausibly maintained; but, with those words in the statute, the conclusion must be that simply lending or depositing public money is not a crime. A loan or deposit is a crime only when it is made 'contrary to law.'

"An examination of the statutes will prove that the treasurer is not absolutely denied the right to lend money which he receives in his official capacity. The statute prescribing the duties of the treasurer exert an important influence upon the question. That important influence upon the question. That statute makes no provision concerning the keeping or custody of the county funds. It does make express provision as to what he shall do with books and papers. (3 Burns Stat., Sections 7996, 7997.) The only reason that can be assigned for the action of the Legislature is that it intended to leave, and did leave, to the treasurer full power to keep and use the funds in his own way. keep and use the funds in his own way.

The duties of the treasurer in relation to receiving and disbursing money received by him in his official capacity are prescribed.

(3 Burns Stat., Sections 7300, 7508.) There is not a word as to where or now he shall keep the money. He is required to give bond. The bond binds him and his sureties absolutely for all money that he may receive in his official capacity.

"The express mention of one thing implies the exclusion of all others," and in expressly providing how and where books and

pressly providing how and where books and papers shall be kept, the tiear implication is that money is left in the uncontrolled charge and custody of the treasurer. The restriction upon his possession and use of money is that to which we have referred, namely, where money is set apart to a specific fund there it must remain, and money required to pay warrants or meney required to be turned over to other others or persons must always be in the hands of the treasurer. (3 Burns, Sections 7990, 8003; "With these words, contrary to law," modifying the words or loan with or without interest' the question for the court then to decide would be when the loaning of public money is contrary to law. According to the brief and facts gathered elsewhere concerning the right of treasurers and others to loan public money, this right seems to have been affirmed by a long line of decisions of the Supreme Court. Rock vs. Stinger, 36 Ind., 346, was one of the early decisions. It seems that the rule of law on the subject grew out of an attempt early in the history of the State to becomes his own money, and when he has required of him. (Rick vs. Stinger, 36 Ind., 346.) If the Legislature has provided or shall provide that money in such a case shall provide that money in such a case shall remain specifically the money of the county, a different rule would prevail."

It seems that this ruling came about in an effort to hold public officers absolutely accountable for the funds in their charge, and when the case of loaning the money came to the court, it could not deny the right to the officer whom it had declared had a title to the money that was greater had a title to the money that was greater than that of an ordinary bailee. It is also contended in the brief, ing the real intent of the Legislature on the question, that all debates in that body on the question of fees and salaries have taken into consideration the fact that decisions of the Supreme Court since the passage of this act in 1881 have been to the effect that the old rule of law was un-changed. In Campbell vs. Pence, 118 Ind., 313, the brief quotes the Supreme Court as "It has been repeatedly held by this court that a township trustee is more than a mere bailee of the money which comes into his hands by virtue of his office; that he is a debtor to the State for the use of those

directly interested."

The effect of a favorable ruling on this petition would be to give all public officers the right to lend any money in their hands in excess of the demands made upon them, except such money as is in their hands as special funds which they are required to keep intact or dispose of in a certain

Dalton, high-class Hatter. Bates House. THE INTEREST DOES NOT WANE. Fast Thinking and Acting Now the

This will likely be a week of fast think-ing and acting among buyers of holiday goods. The stockings which will be hung up, in many instances, will be rather small to accommodate the numerous articles which old Santa will want to deposit in it. It is quite noticeable that from the liberal buying now going on at PAUL H. KRAUSS'S haberdashery that the interest in the yule log, with its imagery of the annual visits of kindly old Santa Claus is not waning. His beautiful stores are dis-played at Mr. Krauss's in many pleasing gifts, such as ladies' and gentlemen's handkerchiefs, mackintoshes, sweaters, silk umbrellas, garters, night robes, bath robes, bath slippers, mitts and towels, gentlemen's latest neckwear, hosiery, gloves, dress shields, shirts, canes, cane and umbrella sets, smoking jackets, dress suit cases, collars, cuffs, sleeve buttons, studs, pins, mufflers, the Dr. Jaeger union suit underwear in ladies' and gentlemen's garments, and finest material, balbriggan and and silk underwear and various other arand silk underwear, and various other ar-ticles to fill up the niche of gift-giving fancy. The few days remaining until Christmas will increase in interest and commo-tion, and the early buyers are fortunate, both in getting a choice of goods and in avoiding being squeezed.

GOOD THINGS FOR CHRISTMAS. A BUSINESS MAN'S DISPLAY.

Beautiful Show Windows. W. E. Kleinsmith, manager of the Original Danbury Hat Store, No. 23 West Washington street, shows a display of holiday goods unexcelled in this special line.

Good things for Xmas can be selected at 23 West Washington street without having to go further. The line of goods the Original Danbury shows consists of Hats, Caps, Gloves and Umbrellas. The display of um-brellas is large and comprehensive. The "Original" engraves name on umbrellas free of charge. The number is 23 West Washington street, opposite News office.

L. D. & W. and Clover Leaf Route Has through sleeping and parlor cars to St. Louis. Fare, \$5.50. Ticket offices, Union Depot and 134 South Illinois street.

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Browning's Cough Syrup. Guaranteed to cure. 15 West Washington street, Ask your druggist for Isabella Port Wine. Only 50c a bottle. Guaranteed a pure medicinal wine. Bottled by PACIFIC WINE CO.

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The holidays are near, and our Overcoat stock is too large. We've reduced prices now, that you may get the benefit of a full winter's wear at end-of-season prices.

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SALE

... This Week and Next

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The all-absorbing question now is, "What to Buy for Holiday Presents?" There can be nothing more handsome, useful and lasting than a nice piece of Furniture-a Bookcase, Desk, Table, Chair, or dozens of other articles which I show, will last for years and years, and give lasting pleasure. Call in and look around. You may get some ideas.

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